

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**STEPHEN MONTALO**

**PLAINTIFF**

**vs.**

**CIVIL ACTION No.: 3:20-CV-822-HTW-LGI**

**WARDEN FRANK SHAW, et al.**

**DEFENDANT**

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

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BEFORE THIS COURT is the Report and Recommendation [**Docket no. 85**] issued by Magistrate Judge LaKeysha Greer Isaac. In her Report and Recommendation, filed on January 6, 2023, Magistrate Judge Isaac recommended that the Defendants' *Motion for Summary Judgment Based on Failure to Exhaust Administrative Remedies* [Docket no. 62] be granted as to all claims asserted by the *pro se* plaintiff Stephen Montalo ("Montalo"), except for his cause of action arising out of an April 11, 2020, assault incident. The Magistrate Judge also recommended that the *Motion to Dismiss* [Docket no. 75], filed by Defendants Dr. Arnold, Nurse Hobson, and Nurse Cole be granted *in toto* because Montalo had failed to comply with the exhaustion requirement under the Prison Litigation Reform Act. The Magistrate Judge later clarified that her Report recommends dismissing the following defendants from this lawsuit: Joni Collins; Christopher Dykes; Miraka Green; Courtnea Howard; Jabrurious Jackson; Shericka Nelson; Ashley Ray; Frank Shaw; Edward Westmoreland; and Management & Training Corporation [Docket no. 93]. Magistrate Judge Isaac directed Montalo to file any objections within fourteen (14) days.<sup>1</sup>

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<sup>1</sup> The Magistrate Judge, thereafter, granted Montalo additional time to file his Objections to her Report and Recommendation. [See Text Only Order dated 02/03/2023].

Montalo filed his Objections to the Magistrate Judge's Report and Recommendation on February 9, 2023 [Docket no. 94]. Montalo asks this court to reject the Magistrate Judge's findings and "hold all the defendants accountable to the extent that [he] receives the just measure of medical surgical relief and financial compensation he needs and deserves along with any pardon and/or diplomatic immunity this court would be willing and/or able to grant..." *Id.* at 6-7.

This court, however, having considered Montalo's objections thereto, finds the Magistrate Judge's Report and Recommendation [**Docket no. 85**] to be well-taken. Magistrate Judge Isaac carefully examined Plaintiff's Complaint against the Defendants, identified the operative issues and cogent facts, and crafted a well-versed Report and Recommendation which illustrates Montalo's failure to exhaust his administrative remedies as to all claims except one; therefore, this court hereby **ADOPTS** the Report and Recommendation of the Magistrate Judge as the order of this court.

ACCORDINGLY, IT IS HEREBY ORDERED THAT, based upon the reasons listed in the Magistrate Judge's Report and Recommendation, Defendants' Motion for Summary Judgment [**Docket no. 62**] hereby is **GRANTED IN PART and DENIED IN PART**. This court finds that genuine issues of material facts exist as to the April 11, 2020, alleged incident, such that preclude a grant of summary judgment on this claim only.

IT IS FURTHER ORDERED THAT the Motion to Dismiss [**Docket no. 75**] filed by Defendants Dr. Arnold, Nurse Hobson, and Nurse Cole hereby is **GRANTED IN TOTO**.

**SO ORDERED this the 27<sup>th</sup> day of February, 2023.**

/s/HENRY T. WINGATE  
UNITED STATES DISTRICT COURT JUDGE